

W.8.B.1.

AGENDA COVER MEMORANDUM

TO: Board of County Commissioners

DEPARTMENT: Lane County Sheriff's Office

PRESENTED BY: Judy Simpson

SUBJECT: **IN THE MATTER OF APPROVING
INTERGOVERNMENTAL AGREEMENT WITH
CITY OF EUGENE FOR THE PURCHASE OF
SEVENTEEN (17) JAIL BEDS FOR THE
CONFINEMENT OF CITY OF EUGENE PRISONERS
IN THE LANE COUNTY ADULT CORRECTIONS
FACILITY**

I. MOTION

MOVE TO APPROVE THE ORDER IN THE MATTER OF APPROVING
EXECUTION BY THE COUNTY ADMINISTRATOR OF INTERGOVERNMENTAL
AGREEMENT BETWEEN CITY OF EUGENE AND LANE COUNTY.

ISSUE/PROBLEM

Should Lane County Sheriff's Office provide jail beds to the City of Eugene for the
confinement of Eugene Municipal Court prisoners and generate additional revenue.

II. DISCUSSION

A. Background

Lane County has previously entered into an Intergovernmental Agreement to provide
seventeen (17) jail beds for the confinement of Eugene Municipal Court Prisoners.

Intergovernmental Agreement 2004-02903 between Lane County and City of Eugene will
be in effect beginning 1 July 2004 and ending 30 June 2006.

City of Eugene agrees to pay Lane County \$560,497.65 for the period of 1 July 2004
through 30 June 2005.

Consideration for the period of 1 July 2005 through 30 June 2006 under this agreement will be determined during the fiscal year 05/06 budget cycle.

B. Analysis

Lane County should take advantage of generating additional revenue for providing jail beds to the City of Eugene for the confinement of Eugene Municipal Court Prisoners.

C. Alternatives/Options

1. Adopt the Order to approve Intergovernmental Agreement 2004-02903.
2. Do not approve the order.

D. Recommendations

Recommends Board approval of proposed Board Order.

E. Timing

As stated above.

III. IMPLEMENTATION/FOLLOW-UP

None Anticipated

IV. ATTACHMENTS.

1. Proposed Board Order No. _____.
2. Intergovernmental Agreement in the form of Exhibit "A".

IN THE BOARD OF COUNTY COMMISSIONERS OF Lane County, OREGON

ORDER NO.

**)IN THE MATTER OF APPROVING
)INTERGOVERNMENTAL AGREEMENT WITH
)CITY OF EUGENE FOR THE PURCHASE OF
)SEVENTEEN (17) JAIL BEDS FOR THE
)CONFINEMENT OF CITY OF EUGENE PRISONERS
)IN THE LANE COUNTY ADULT CORRECTIONS
)FACILITY**

The Board of County Commissioners of Lane County orders as follows:

THIS MATTER having come before the Board of County Commissioners for approval of Intergovernmental Agreement 2004-02903 between Lane County and City of Eugene.

WHEREAS, in accordance with ORS 190.010, units of local government may enter into agreements for the performance of any and all functions and activities that any party to the agreement has the authority to perform.

WHEREAS, City of Eugene has negotiated with Lane County for the purchase of seventeen (17) jail beds for the confinement of City of Eugene prisoners in the Lane County Adult Corrections Facility for the period of 1 July 2004 through 30 June 2006

THEREFORE, IT IS HEREBY ORDERED that the Board of County Commissioners approve the County Administrators execution of Intergovernmental Agreement between City of Eugene and Lane County, in substantial conformity with the attached Exhibit "A".

Signed this day of 2004

Chair, Board of County Commissioners

APPROVED AS TO FORM

Date 5/10/04 lane county

J. Haidlaw

OFFICE OF LEGAL COUNSEL

INTERGOVERNMENTAL CONTRACT

BETWEEN: The City of Eugene, an Oregon
Municipal Corporation (City)

AND: ~~Lane~~ County, a unit of (County)
local government of the State of Oregon

CONTRACT NO.: 2004-02903

EFFECTIVE

DATE: July 1, 2004

RECITALS

- A. ORS 190.010 provides that units of local government may enter into agreements for the performance of any and all functions and activities that any party to the agreement, its officers, or agents, have the authority to perform.
- B. City desires to enter into a contract with County to purchase the services described in this contract and County is willing to provide such services on the terms and conditions set forth herein and in the following exhibits:

Exhibit A - City of Eugene Standard Contract Provisions

Exhibit B - Compensation Schedule

Exhibit C - Eugene Municipal Court Matrix

AGREEMENT

- 1. **Services to be Provided.** County agrees to provide to City the following services ("the Work"):

The purpose of this Contract is for County to provide space for the confinement of City of Eugene prisoners in its Adult Correction Facility. The costs which are to be paid for these services and the obligation of each party is set forth in the body of this Contract and the exhibits hereto.

1.1 **Definition of City Prisoner.**

City prisoner is defined as a person confined in a County Correction Facility by order of

Code"). A person confined in a County Corrections facility on both City charges and State charges will not be considered a City prisoner, except as specified in section 1.1.1.

1.1.1 A person confined in a County Corrections Facility on both City charges and State charges who becomes eligible for matrix may be considered a City prisoner if:

- a) the person has been designated a Priority 1 or Priority 2 hold according to the Eugene Municipal Court Matrix (Exhibit C); and
- b) there is an available bed under this agreement in which to hold the person, or there is a City prisoner with a lower Priority designation who may be matrixed to create such space.

In this situation the person will be considered a City prisoner only for the duration of the sentence imposed by Eugene Municipal Court.

1.2 Prisoner Incarceration.

County agrees to provide space in its Adult Corrections Facility for a daily maximum number of 17 City prisoners who have been ordered confined in a County Custodial Incarceration Facility by order of the Eugene Municipal Court as a result of a Eugene Municipal Court violation.

County Custodial Incarceration Facility means all of Lane County's programs except the electronic supervision, City Inmate Weekend Work Crews or County Road Fund work program. Persons performing community service are not in-custody.

Any prisoner released on the electronic supervision program, City Inmate Weekend Work Crew, County Road Fund work program or being held by County prior to Eugene Municipal Court arraignment will not be counted toward the daily limit of 17 City prisoners.

1.3 Jail Capacity

County will, at all times, comply with the orders of the United States District Court in the case of Haggin and Johnson vs. Lane County, Case No. 86-6033E. When City prisoners exceed 17 within the combined County facilities in any 24 hour period, only those prisoners above the 17 inmate limit may be released according to the Eugene Municipal Court Matrix schedule (Exhibit C).

The Matrix release schedule will be monitored by City and County. County will

provide City with a daily report of all Municipal Court offenders released based on the schedule criteria.

1.4 Out of Facility Medical Care and Treatment

In the event that out-of-facility medical care or treatment for a City prisoner becomes necessary for an emergency or required for a non-emergency, the City authorizes the County to release the City prisoner from custody before medical costs are incurred. Within 24 hours of the release, the County shall provide electronic or written notification to the City documenting the prisoner's name, docket number, date and time of release, and the medical reason for the release. Transportation related to out-of-facility medical care or treatment will be the financial responsibility of the released City prisoner.

If City prisoners require out-of-facility medical care or treatment because of injury received while in jail custody or illness caused by jail conditions, e.g., food poisoning, exposure to fumes or blood borne pathogens, City shall not be required to pay the costs of medical care and treatment incidental thereto.

1.5 Transportation

Transportation of City prisoners to and from Municipal Court shall be provided by City, but may be provided by County on request and, if provided by County, City shall pay County the actual costs of the transportation.

2. Time for Completion

County shall commence work under this contract on July 1, 2004. Unless terminated sooner under paragraph 4, this contract shall remain in effect until June 30, 2006.

3. Consideration.

The consideration which City shall pay to County for both the work performed by County and the expenses incurred by County in performing the work, shall be based on the compensation schedule described on the attached Exhibit B.

County shall provide City with a monthly statement of services. County shall make its best effort to deliver its monthly statement to City on or before the tenth day of the month. City shall make its best effort to make payment for services on or before the 25th day of the month. County shall not be entitled to reimbursement for any expenses except those specified on the

attached compensation schedule. All expenses must be properly documented and submitted in accordance with City requirements.

County shall provide the City of Eugene Police Department with all notifications and billing statements received from medical providers for out-of-facility medical care or treatment. City will compensate the medical provider pursuant to the terms and conditions set forth in section 1.4 of this contract.

4. **Termination.** Upon ninety days prior written notice delivered to the persons designated in paragraph 5, either party, without cause, may terminate its participation in this contract. In the event of termination, City shall pay County for Work performed to the date of termination.
5. **Contract Administration.** Each party designates the following as its representative for purposes of administering this contract:

County: Captain John Clague
Lane County Adult Corrections
101 West 5th Avenue
Eugene, OR 97401

City: Cindi Hamm
Central Services Department
860 West Park Street
Eugene, Oregon 97401

Either party may change its designated representative by giving written notice to the other as provided in paragraph 11.

6. **Records/Inspection.** County shall maintain records of its charges to City under this contract for a period of not less than three full fiscal years following County's completion of this contract. Upon reasonable advance notice, City or its authorized representatives may from time to time inspect, audit and make copies of any of County's records that relate to this contract. If any audit by City discloses that payments to County were in excess of the amount to which County was entitled under this contract, County shall promptly pay to City the amount of such excess. If the excess is greater than one percent of the contract amount, County shall also reimburse City its reasonable costs incurred in performing the audit.
7. **Indemnification.** Each party agrees to indemnify, defend and hold harmless the other party from and against all claims or damages which may arise due to the action of that party. The parties' indemnity/hold harmless obligation is subject to the limitations of the Oregon Tort

Claims Act and the County's obligation is further limited by Article XI, Section 10 of the Oregon Constitution.

8. **Subcontracting.** County shall not subcontract work under this contract, in whole or in part, without City's prior written approval. County shall require any approved subcontractor to agree, as to the portion subcontracted, to comply with all obligations of County specified in this contract. Notwithstanding City's approval of a subcontractor, County shall remain obligated for full performance of this contract and City shall incur no obligation to any subcontractor. County shall indemnify, defend and hold City harmless from all claims of subcontractors.
9. **Assignment.** County shall not assign this contract, in whole or in part, or any right or obligation hereunder, without City's prior written approval.
10. **Compliance with Laws.** County and City shall comply with all applicable Federal, State and local laws, rules, ordinances and regulations at all times in the performance of their duties.
11. **Notices.** Any notices permitted or required by this contract shall be deemed given when personally delivered or upon deposit in the United States mail, postage fully prepaid, certified, return receipt requested, addressed to the representative designated in paragraph 5. Either party may change its address by notice given to the other in accordance with this paragraph.
12. **Arbitration.** Any controversy regarding the terms and conditions of this Contract shall be submitted to arbitration. Any party may request arbitration by written notice to the other. If the parties cannot agree on a single arbitrator within fifteen (15) days from the giving of notice, each party shall within five (5) days select a person to represent that party and the two arbitrators shall immediately select a third impartial person to complete a three member arbitration panel. If the two arbitrators cannot agree within 15 days on the third arbitrator, then either party may petition the Presiding Judge of Lane County Circuit Court to select the third arbitrator. The panel shall conduct the arbitration in accordance with the provisions of ORS Chapter 33, or the corresponding provisions of any such future law. The arbitrators(s) shall assess all or part of the cost of the arbitration, including attorney fees, to any or all parties.
13. **Integration.** This contract embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein. This contract shall supersede all prior communications, representations or agreements, either oral or written, between the parties. This contract shall not be amended except in writing, signed by both parties.
14. **Interpretation.** This contract shall be governed by and interpreted in accordance with the laws of the State of Oregon.

CITY OF EUGENE

By: _____
(signature)

Dennis M. Taylor
City Manager

Date: _____

LANE COUNTY

By: _____
(signature)

Jan Clements
Lane County Sheriff

Date: _____

By: _____
(Signature)

William A. Van Vactor
County Administrator

Date: _____

EXHIBIT A

CITY OF EUGENE - STANDARD CONTRACT PROVISIONS Services

The following provisions if applicable are hereby included in and made a part of the attached contract for services between the City of Eugene and the Contractor named thereon as provided for in the Eugene Code, 1971, the revised statutes of the State of Oregon, and Federal laws, rules, regulations, and guidelines:

1. Fair Employment Practice Provisions (Eugene Code, 1971, Section 4.625)

These provisions are applicable to any contract with a Contractor if the City purchases goods or services from the Contractor costing \$2,500 or more in any fiscal year:

1.1 During the performance of this contract, the Contractor agrees as follows:

1.1.1 The Contractor will not discriminate against any employee or applicant for employment because of an individual's race, religion, color, sex, national origin, marital status, familial status, age, sexual orientation or source of income, a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262, or because an individual is a person with a disability which, with reasonable accommodation by the employer does not prevent the performance of the work involved, unless based upon a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business.

1.1.2 Those Contractors employing 15 or more individuals will develop and implement an affirmative action plan to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, sex, age or national origin. Such plan shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

1.1.3 The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Human Rights Commission setting forth the provisions of this nondiscrimination clause.

1.2 The Contractor will, prior to commencement and during the term of this contract, provide to the City such documentation, and permit any inspection of records as may be required or authorized by rules adopted by the city manager to determine compliance with paragraph 1.1 above.

1.3 If upon an investigation conducted pursuant to rules adopted by the city manager in accordance with section 2.019 of the Eugene Code, 1971 there is reasonable cause to believe that the contractor or any subcontractors of the Contractor have failed to comply with any of the terms of paragraphs 1.1 or 1.2, a determination thereof shall be made in accordance with the adopted rules. Such determination may result in the suspension, cancellation or termination of the principal contract in whole or in part and/or the withholding of any funds due or to become due to the Contractor, pending compliance by the Contractor and/or its subcontractors, with the terms of paragraphs 1.1 and 1.2.

1.4 Failure to comply with any of the terms of paragraphs 1.1 and 1.2 shall be a material breach of this contract.

1.5 The Contractor shall include the provisions of paragraphs 1.1 through 1.4 in contracts with subcontractors so that such provisions will be binding upon each subcontractor.

2. Foreign Contractor Report to Department of Revenue (ORS 279.021)(2)(a)

The following provision is applicable to all contracts with a contract price exceeding \$10,000 if the Contractor is not domiciled in or registered to do business in the state of Oregon:

The Contractor shall promptly report to the Department of Revenue on forms to be provided by the Department of Revenue the total contract price, terms of payment, length of contract and such other information as the Department of Revenue may require before final payment can be received on the public contract. The City shall satisfy itself that the requirement of this subsection has been complied with before it issues a final payment on this contract.

3. Payment of Laborers and Materialmen, Contributions to Industrial Accident Fund, Liens, and Withholding Taxes (ORS 279.312)

The Contractor shall:

3.1 Make payment promptly, as due, to all persons supplying to such Contractor, labor or material for the prosecution of the work provided for in such contract.

3.2 Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this contract.

3.3 Not permit any lien or claim to be filed or prosecuted against the City of Eugene or any subdivision or agency or employee thereof on account of any labor or material furnished.

3.4 Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

4. Payment of Claims by Public Officers (ORS 279.314)

If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with the public contract as such claim becomes due, the public officer or officers representing the City of Eugene may pay such claims to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this contract. The payment of a claim in the manner authorized shall not relieve the Contractor or his/her surety from his or her obligations with respect to any unpaid claims.

5. Hours of Labor (ORS 279.316)

All persons employed must receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279.334 (1)(a)(C)(ii) to (iv) and for all time worked in excess of 10 hours a day or in excess of 40 hours in a week, whichever is greater. The Contractor must give notice to employees who perform work on this contract, in writing, either at the time of hire or before commencement of work on this contract, or by posting a notice in a location frequented by employees, the number of hours per day and days per week that the employees may be required to work.

6. Payment for Medical Care and Attention to Employees (ORS 279.320)

6.1 The Contractor shall promptly as due, make payment to any person, co-partnership or association or corporation furnishing medical, surgical, and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Contractor, of all sums which the Contractor agrees to pay for such services and all monies and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

6.2 The Contractor and all employers working under this contract are subject employers, and agree to comply with ORS 656.017.

7. Labor Contract Conditions (Eugene Code, 1971, Section 2.030)

7.1 The Contractor will comply with all provisions required by the statutes of the state, of contractors on a "public contract" as defined in ORS 279.310(1).

7.2 The Contractor will comply with all requirements of Eugene Code, 1971, Sections 4.613 to 4.650.

7.3 The Contractor shall, in the event he/she willfully violates the provisions of this section or knowingly files false affidavits of compliance, waive for a period of one year any right to bid upon any public works project let by the City.

7.4 If a Contractor or subcontractor violates the provisions of this section, the City may, at its option, terminate said contract or subcontract and said Contractor or subcontractor in such event shall forfeit all rights under his/her contract except to payment for actual labor and materials furnished to the City. The City may waive in whole or in part any forfeitures or sanctions provided in this paragraph.

8. Nondiscrimination on the Basis of Disability (Americans with Disabilities Act, 42 USC sec. 12101 et seq.)

The Contractor shall:

8.1 Comply with all requirements of the Americans with Disabilities Act, 42 U.S.C. sec. 12101, et seq., and all regulations implementing the Act, especially including those regulations set forth at 28 C.F.R. sec. 35.130, or any later replacement for those regulations, directly or indirectly applicable to Contractor as a result of a contract with the City.

8.2 To the extent legally possible, Contractor shall indemnify and hold City, its officers, agents and employees, harmless from and against any and all claims, actions, liabilities, costs, including costs of defense, arising out of or in any way related to any act or failure to act by Contractor and Contractor's employees, agents, officers and contractors in connection with Contractor's obligations concerning services, aid or benefits to be provided to individuals with disabilities. In the event any such action or claim is brought against City, Contractor shall, upon City's tender, defend the same at its sole cost and expense, promptly satisfy any judgment adverse to City or to City and Contractor jointly, and reimburse City for any loss, cost, damage or expense (including legal fees) suffered or incurred by City. This right of indemnification and to be held harmless shall be in addition to, and not in replacement of any other right that City may have under any statute, under the common law or under this contract.

8.3 By acceptance of this agreement, Contractor warrants that Contractor is familiar with the requirements of the Americans with Disabilities Act and the regulations to enforce the Act. Contractor further warrants that Contractor is in compliance with the requirements of the Act concerning local government services applicable to Contractor as a result of this agreement. Contractor shall continue to comply with all applicable provisions of the Act. City shall have the right to inspect, upon reasonable notice, Contractor's records and all locations where the work is to be performed to assure compliance with all applicable provisions of the Act.

EXHIBIT B
City of Eugene - Compensation Schedule
(Effective Period - 1 July 2004 through 30 June 2005)

1. COST OF INMATE INCARCERATION

- 1.1** City shall pay County for providing jail space (beds) for 17 in-custody Municipal Court offenders based on the following schedule:

Daily Rate Per Space (Bed): **\$ 90.33**

Rate includes: Jail Security (personnel), Materials and Services (Jail Security Programs Only), and Day Cost Centers for Corrections Admin., Population Management, Medical, Laundry, Facility Maintenance, and Food Service

For 17 Beds (Daily Rate x 17): **\$1,535.61**

For 365 Days: **\$560,497.65**

- 1.2** Contractor and City agree to meet in January 2005 to update the second year contract expenses.

EXHIBIT C
EUGENE MUNICIPAL COURT MATRIX

- 1.1 County will use the following matrix priority list to determine Eugene City prisoners to retain in custody or matrix. Priority 1 inmates will be given the highest priority to retain in custody with Priority 8 inmates (followed by Priority 7, then Priority 6, etc.) being the lowest. These inmate will be considered for matrix release when the number of Eugene City prisoners as defined in this agreement exceeds 17 in a 24-hour period.

Priority 1	Sentenced Defendants (if all 17 inmates being held are Priority 1, matrix release will be based on percentage of sentence served)
Priority 2	"No matrix" designation by judge
Priority 3	Five or more warrants issued on the same Eugene Municipal Court charge or complaint; Failure To Appear sentences after guilty plea or finding (i.e. sentences, etc) and Probation Violations.
Priority 4	Five or more warrants issued on all current Eugene Municipal Court charges. Failure to Appear on Major Traffic offenses.
Priority 5	Four or more warrants issued on all current Eugene Municipal Court charges
Priority 6	Three or more warrants issued on all current Eugene Municipal Court charges
Priority 7	Two or more warrants issued on all current Eugene Municipal Court charges
Priority 8	First time warrant on Eugene Municipal Court charges

- 1.2 City inmates may be exempted from this matrix and held when Lane County Adult Correction staff determine they are considered a danger to themselves or others, or have an institutional history of misconduct. Lane County Adult Corrections staff may hold a City inmate for these reasons regardless of Priority Code, until the following court day when they shall provide notification to the Court and a judge shall decide the appropriate Priority Code for the inmate given the circumstances.